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One Hundred First Congress
Congress of the United States
Committee on Foreign Affairs
House of Representatives
Washington, DC 20515

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MINORITY CHIEF OF STAFF

February 22, 1989

OCA FILE

HFAC

LEG

Mr. William K. Webster
Director
Central Intelligence Agency
Washington, D.C. 20505

Dear Mr. Webster:

The Committee would appreciate receiving the views of the Agency on the following measure:

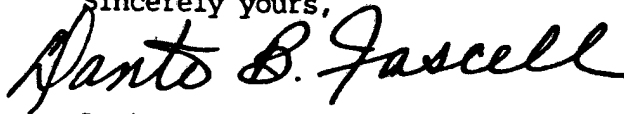
H.R. 963 — To provide for the imposition of sanctions on persons who export, transfer, or otherwise engage in the trade of certain items in violation of laws and regulations implementing the Military Technology Control Regime.

Inasmuch as subcommittee hearings are planned in the near future, I respectfully request that the Agency's views be received as soon as possible.

A copy of this measure is enclosed for your convenient reference.

With best wishes, I am

Sincerely yours,



Dante B. Fascell
Chairman

DBF:jai
Enclosure

101ST CONGRESS
1ST SESSION

H. R. 963

To provide for the imposition of sanctions on persons who export, transfer, or otherwise engage in the trade of certain items in violation of laws and regulations implementing the Military Technology Control Regime.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 1989

Mr. BERMAN (for himself, Mr. SOLOMON, Mr. DOWNEY of New York, Mr. LEVINE of California, and Mr. KASICH) introduced the following bill; which was referred jointly to the Committees on Foreign Affairs, Ways and Means, and Government Operations

A BILL

To provide for the imposition of sanctions on persons who export, transfer, or otherwise engage in the trade of certain items in violation of laws and regulations implementing the Military Technology Control Regime.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 **SECTION 1. ENFORCEMENT OF MISSILE TECHNOLOGY CON-**
4 **TROL REGIME.**

5 (a) **DETERMINATION BY THE PRESIDENT.**—Whenever
6 there is reliable evidence, as determined by the President—

7 (1) that a United States person—

1 (A) is exporting, transferring, or otherwise
2 engaged in the trade of any MTCR item in viola-
3 tion of the provisions of section 38 of the Arms
4 Export Control Act (22 U.S.C. 2778) or section 5
5 or 6 of the Export Administration Act of 1979
6 (50 U.S.C. App. 2404 or 2405), or any regula-
7 tions issued under any such provisions,

8 (B) is conspiring to or attempting to engage
9 in such export, transfer, or trade, or

10 (C) is knowingly facilitating such export,
11 transfer, or trade by any other person, or
12 (2) that a foreign person—

13 (A) is exporting, transferring, or otherwise
14 engaged in the trade of any MTCR item for
15 which an export license would be denied if such
16 export, transfer, or trade were subject to those
17 provisions of law and regulations referred to in
18 paragraph (1)(A),

19 (B) is conspiring to or attempting to engage
20 in such export, transfer, or trade, or

21 (C) is knowingly facilitating such export,
22 transfer, or trade by any other person,

23 then, subject to subsection (c), the President shall impose not
24 less than one of the applicable sanctions described in subsec-
25 tion (b).

1 (b) SANCTIONS.—

2 (1) The sanctions which apply to a United States
3 person under subsection (a) are the following:

4 (A) Denying such United States person all
5 export licenses under section 38 of the Arms
6 Export Control Act (22 U.S.C. 2778) and sec-
7 tions 5 and 6 of the Export Administration Act of
8 1979 (50 U.S.C. App. 2404 and 2405).

9 (B) Prohibiting all contracting with, or pro-
10 curement of any products and services from, such
11 United States person by any department, agency,
12 or instrumentality of the United States Govern-
13 ment.

14 (2) The sanctions which apply to a foreign person
15 under subsection (a) are the following:

16 (A) Denying the issuance of any export li-
17 cense under section 38 of the Arms Export Con-
18 trol Act (22 U.S.C. 2778) or section 5 or section
19 6 of the Export Administration Act of 1979 (50
20 U.S.C. App. 2404, 2405) if such foreign person is
21 the designated consignee or end user in the appli-
22 cation for such export license or if the President
23 has reason to believe that such foreign person will
24 benefit from the issuance of such export license.

1 (B) Prohibiting all contracting with, or pro-
2 curement of any products and services from, such
3 foreign person by any department, agency, or in-
4 strumentality of the United States Government.

5 (C) Prohibiting the importation into the
6 United States of any product or service of such
7 foreign person.

8 (3) Sanctions shall be imposed under this section
9 for a period of not less than 2 years and not more than
10 5 years.

11 (c) WAIVER.—The President may waive the imposition
12 of sanctions on a person under subsection (a) with respect to
13 a product or service if the President certifies to the Congress
14 that—

15 (1) the product or service is essential to the na-
16 tional security of the United States;

17 (2) such person is a sole source supplier of the
18 product or service, the product or service is not avail-
19 able from any alternative reliable supplier, and the
20 need for the product or service cannot be met in a
21 timely manner by improved manufacturing processes or
22 technological developments; and

23 (3) the end-user of such product or service is the
24 United States Government.

1 SEC. 2. REPORTS TO CONGRESS.

2 (a) REPORTS BEFORE ACTIONS TAKEN.—The Presi-
3 dent shall, at least 10 days before imposing any sanction, or
4 waiving the imposition of sanctions, under section 1, report
5 such proposed action to the Congress.

6 (b) ANNUAL REPORT.—The President shall include in
7 the annual report submitted under section 14 of the Export
8 Administration Act of 1979 (50 U.S.C. App. 2413), a report
9 on the status of any sanctions imposed under section 1, in-
10 cluding the status of any waiver of such sanctions.

11 SEC. 3. DEFINITIONS.

12 For purposes of this Act—

13 (1) the term “United States person” means
14 “United States person” as defined in section 16(2) of
15 the Export Administration Act of 1979 (50 U.S.C.
16 App. 2415(2));

17 (2) the term “foreign person” means any person
18 other than a United States person;

19 (3) the term “person” means a natural person as
20 well as a corporation, business association, partnership,
21 society, trust, any other nongovernmental entity, orga-
22 nization, or group, and any governmental entity oper-
23 ating as a business enterprise, and includes the singu-
24 lar and plural of such natural persons and entities, and
25 any successors of such entities;

1 (4) the term "otherwise engaged in the trade of"
2 means, with respect to a particular export or transfer,
3 to be a freight forwarder or designated exporting
4 agent, or a consignee or end user of the item to be ex-
5 ported or transferred; and

6 (5) the term "MTCR item" means any item listed
7 in the Equipment and Technology Annex of the Missile
8 Technology Control Regime which was adopted by the
9 governments of Canada, France, the Federal Republic
10 of Germany, Italy, Japan, the United Kingdom, and
11 the United States on April 7, 1987, and in accordance
12 with which the United States Government agreed to
13 act beginning on April 16, 1987.

14 **SEC. 4. REGULATORY AUTHORITY.**

15 The President may issue such regulations, licenses, and
16 orders as are necessary to carry out this Act.

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